REGULATORY FLEXIBILITY COMMITTEE

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 232-9588 Fax: (317) 232-2554

MEETING MINUTES[1]

Meeting Date:	**August 23, 2001**
Meeting Time:	**9:00 A.M.**
Meeting Place:	**State House, 200 W. Washington St., House Chambers**
Meeting City:	**Indianapolis, Indiana**
Meeting Number:	**2**

Members Present: **Rep. Craig Fry, Co-Chairperson; Rep. Jack Lutz; Rep. James Atterholt; Rep. Robert Behning; Rep. David Frizzell; Rep. Daniel Dumezich; Rep. David Crooks; Rep. Richard Bodiker; Rep. Susan Crosby; Rep. Brian Hasler; Rep. Ed Mahern; Rep. Scott Pelath; Sen. Greg Server, Co-Chairperson; Sen. Beverly Gard; Sen. Becky Skillman; Sen. Thomas Weatherwax; Sen. Timothy Lanane; Sen. Glenn Howard; Sen. James Lewis; Sen. Frank Mrvan.**

Members Absent: **Rep. David Yount; Rep. Paul Robertson; Sen. Murray Clark; Sen. Connie Lawson; Sen. James Merritt.**

---

[1] Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of $0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is **http://www.ai.org/legislative/.** No fee is charged for viewing, downloading, or printing minutes from the Internet.

Representative Craig Fry and Senator Gregory Server, Co-Chairmen of the Regulatory Flexibility Committee, called the meeting to order at 9:00 a.m. As a continuation of the Committee's first meeting on telecommunications issues, the Chairmen allowed Clark McLeod of McLeodUSA to speak about his company's experience with the local telephone market in Indiana. Representative Fry indicated that the remainder of the meeting would be devoted to energy issues.

Testimony from McLeodUSA[2]

Clark McLeod, Chairman and CEO of McLeodUSA, introduced his company as a competitive local exchange carrier (CLEC) serving 5,943 customers in 39 Indiana cities. He noted that McLeodUSA has made $81 million in capital expenditures in Indiana and has 1,247 fiber miles in the state. McLeodUSA also provides 4 million phone directories reaching 5 million people in the Midwest and offers digital subscriber line (DSL) high-speed Internet service. The company operates nationwide, with a broadband network presence in 90% of the United States.

After describing McLeodUSA's operations, Mr. McLeod discussed the status of competition in the local telephone market. He stated that although the Telecommunications Act of 1996 was supposed to stimulate competition in the local market, actual competition has barely begun in the United States. According to Mr. McLeod, competition has been stalled because incumbent local exchange carriers (ILECs) have thwarted the ability of CLECs to gain economic access to the local copper and fiber networks owned by the ILECs. Mr. McLeod indicated that his company had experienced such access barriers in Indiana.

Mr. McLeod proposed that in order to remedy the lack of competition in the local market, federal and state regulators must do three things: (1) mandate equal access to the local network; (2) monitor access quality; and (3) enforce access quality. First, Mr. McLeod explained that in mandating equal access, regulators would have to require both "functional" equal access and "economic" equal access. Functional equal access would require that an ILEC be made "blind" in providing its services; that is, it must be impossible for an ILEC to discriminate on the basis of whether an order or request comes from the ILEC's retail operation or a competitor. Economic equal access would require that CLECs be able to recover the extra costs they incur when they receive inferior wholesale services from ILECs. According to Mr. McLeod, achieving these two aspects of equal access would require regulators to establish immediate, precise standards for local service delivery.

Second, after mandating local service delivery standards, regulators would have to continually monitor ILECs for compliance with these standards. Mr. McLeod suggested that regulators be allowed to perform independent compliance audits as part of this monitoring.

Finally, Mr. McLeod stressed that regulators must have the authority to enforce equal access mandates. He suggested that CLECs should receive direct, self-executing reimbursement for damages incurred when they receive inferior wholesale service from ILECs. Alternatively, he proposed that a 30% discount apply to the cost of services offered from ILECs to CLECs to compensate for unequal access. Mr. McLeod also recommended that in enforcing equal access, regulators should impose progressive penalties that escalate for repeat violations. He further urged regulators to order ILECs to be structurally separated into separate wholesale and retail divisions if they do not promptly meet the mandate to provide equal access.

After the presentation, Represenative Bodiker asked Mr. McLeod to define "consumer" in

[2]See Exhibit 1.

the context of the local phone market. Mr. McLeod responded that a consumer is anyone who uses local phone service and includes both residential and business customers. He noted that McLeodUSA serves both residential and business consumers but loses money in the residential market.

Representative Lutz then asked Mr. McLeod to define "competition." Mr. McLeod stated that competition means giving consumers choice in their local service carrier, and that true competition means offering more than just two providers.

Annual Report on the Energy Industry[3]

At the conclusion of the testimony on telecommunications, Chairman William McCarty of the Indiana Utility Regulatory Commission (IURC) gave the IURC's annual report to the Committee on the energy industry. Chairman McCarty indicated that he would address the following issues: (1) the pricing of natural gas during last winter's heating season; (2) the status of merchant power plants in Indiana; (3) regional transmission organizations; and (4) mergers and acquisitions within the industry.

(1) Natural Gas Pricing

Chairman McCarty reported that natural gas prices have been volatile over the past year and experienced sharp increases during last winter's heating season. He displayed graphic representations of the steep price increase that occurred from October 2000 through January 2001. Chairman McCarty explained that when the wellhead price of gas was low, drilling and exploration decreased. However, once the wellhead price broke $2 following decreased supplies, production began to increase again. For example, in July 1999, there were 588 drilling rigs. After price increases and the resulting increase in exploration, there were 1,278 drilling rigs in July 2001. According to Chairman McCarty, the number of gas drilling rigs is now at an all-time high.

Chairman McCarty reported that the greatest growth in demand for natural gas has occurred in the power generation sector. He attributed such growth to the emergence of merchant power plants that rely on natural gas as a fuel source to produce electricity. Additionally, he presented graphics showing that natural gas fueled just 2% of electric generation capacity in 1998. By 2005, natural gas is projected to account for 19% of such capacity.

Finally, Chairman McCarty stressed that the IURC aggressively responded to last winter's high heating costs. He noted that the IURC has carefully reviewed each utility's gas costs. Because the wholesale price of natural gas is unregulated, the IURC can only try to determine whether a utility's purchases of gas have been prudent. He indicated that when wholesale prices are high, consumers will inevitably bear the pain of higher retail prices.

Additionally, the IURC instructed utilities to restructure their budget billing plans to alleviate the impact of high heating bills on consumers. The IURC also encouraged utilities to contribute to heating and energy assistance programs, resulting in an almost $4 million increase in funding. On July 27, 2001, the IURC hosted an industry forum to discuss utilities' plans for the winter of 2001-2002.

(2) Merchant Power Plants

Chairman McCarty next focused on the status of merchant power plants in Indiana. He reminded Committee members that merchant plants generate electricity to sell on the

[3]See Exhibit 2.

wholesale market and are typically located near the intersection of transmission lines and gas pipelines. A merchant plant typically assumes the costs of construction and operations, which are later collected through sales on the wholesale market.

Chairman McCarty reported that there are 7 merchant plants currently operating in Indiana, and 8 more have been approved by the IURC. There are 6 merchant plant applications pending before the IURC, and 3 petitions pending from Indiana utilities (PSI Energy, SIGECO, and IP&L) for other generating facilities.

(3) Regional Transmission Organizations

After updating the Committee on merchant power plants, Chairman McCarty discussed the importance of regional transmission organizations (RTOs) in the delivery of electricity. Comparing the electric transmission system to a highway along which electricity travels, he explained that RTOs monitor the transmission system to ensure equal access to the system and to improve electric system reliability in their regional services areas. Chairman McCarty noted that 75% of Indiana's transmission system falls within the service area of the Midwest Independent System Operator (MISO). Headquartered in Carmel, MISO has created from 150 to 200 jobs in the state. Other areas of Indiana are served by the Alliance RTO. Tariffs are charged as electricity passes from one system to the other.

Chairman McCarty suggested that an ideal scenario would be one in which there is only one transmission organization serving the entire country. In the meantime, the IURC hopes to witness the seamless transmission of electricity across RTO boundaries. He suggested that for successful deregulation of the industry to occur in the future, three conditions must be met: (1) there must be an adequate electricity supply; (2) consumers must be sufficiently educated about choices; and (3) there must be an efficient highway to deliver electricity. Chairman McCarty observed that RTOs will be crucial in the success or failure of the third condition.

(4) Mergers and Acquisitions

Finally, Chairman McCarty addressed the recent merger activity in the energy industry. He mentioned several mergers and acquisitions specifically: (1) the AEP/CSW merger, which the IURC supported; (2) the acquisition of IPALCO by AES; (3) the merger of SIGECO and Indiana Gas, resulting in Vectren; (4) the merger of PSI and Cincinnati Gas & Electric, resulting in Cinergy in 1994; and (5) the acquisition of Columbia Gas by NiSource. Chairman McCarty emphasized that these mergers represent only what has occurred in Indiana. He noted that other activity is occurring just outside the state's borders, and that the neighboring states of Illinois, Kentucky, and Ohio have the authority to review and approve utility mergers. Chairman McCarty argued that the IURC should have similar authority to defend Indiana investors and to ensure that certain employment levels are maintained when mergers occur in this state. He urged legislators to give the IURC the authority to play a significant role in reviewing mergers in the state.

After Chairman McCarty concluded his report, Representative Atterholt asked whether IP&L's rates were too high before the utility's acquisition by AES, when IP&L had 400 more employees. Chairman McCarty responded that while it was an interesting question, he had no data that would allow him to determine that.

Representative Crooks then asked Chairman McCarty whether it was true that the IURC had not yet rejected any application by a merchant power plant. Chairman McCarty noted that rejections have been unnecessary because five different merchant plants have withdrawn their applications. He suggested that the increase in withdrawals could be attributed to unfavorable market conditions, local opposition, and development obstacles

faced by the merchant plants. In reviewing applications for merchant plants, the IURC evaluates Indiana's power needs versus an analysis of how much of the proposed power will be exported out of state. Chairman McCarty pointed out that twice as many plants are being constructed in Ohio as are planned for Indiana.

Testimony from James R. Monk[4]

Following the IURC's annual energy report, James R. Monk, President of the Illinois Energy Association, testified about recent developments in the energy industry in Illinois. He began by noting that Illinois' electric industry was deregulated with the enactment of the Electric Service Customer Choice and Rate Relief Act of 1997. That act mandated a four-stage phase-in for electric choice for various classes of customers, with residential customers eligible by May 1, 2002. The act also allowed utilities to partially recover stranded costs by collecting competitive transition charges from customers through 2006, with the possibility of a two-year extension of such charges. Mr. Monk explained that the act was amended in 1999. Among the amendments were provisions accelerating retail choice for commercial and industrial customers of Commonwealth Edison (ComEd). A scheduled 5% rate decrease for ComEd's residential customers was also accelerated. The 1999 act specified that ComEd may not collect additional competitive transaction charges from customers after 2006.

Next, Mr. Monk noted that Illinois conducted a peaker plant inquiry in 2000. The inquiry investigated the necessity of peaker plants in the state and the magnitude of the demand for the power they produce.

Turning to the issue of RTOs, Mr. Monk stated that the utilities that comprise his association opted to join the Alliance RTO, which is organized as a for-profit RTO, rather than the not-for-profit MISO. However, he pointed out that the Alliance and MISO are working together to build a "super-regional" RTO to serve the Midwest. He noted that such cooperation is consistent with the Federal Energy Regulatory Commission's goal of having just four regional RTOs, with one each to serve the Midwest, the West, the South, and New England.

Finally, Mr. Monk discussed the coal and energy legislation passed by the Illinois legislature earlier in the year. He explained that there were two main objectives behind the legislation: (1) to encourage the revitalization of the Illinois coal industry; and (2) to provide incentives for the development of additional baseload generating capacity. Noting that his association was especially supportive of the second objective, Mr. Monk pointed out that Illinois' increased generating capacity over the past three years has largely been due to an increase in peaking capacity. Recognizing that this increased peaking capacity represents an increase in short-term capacity only, Illinois legislators sought to increase baseload capacity to ensure that the state will have enough on-line capacity when it moves to a fully competitive market in January 2005.

Mr. Monk then highlighted the new law's financial incentives. To increase baseload capacity and assist the Illinois coal industry, the legislation creates two main programs. First, it establishes a $500 million grant program for new or expanded coal-fired generation. The grants are to be made from the Energy Infrastructure Fund, which is funded through general obligation bonds. Second, the legislation establishes a $3 billion loan program funded through revenue bonds. Funding for several categories of loans is available from the program's total funds: $1.7 billion for new generation or mines; $500 million for existing facilities for scrubber installation; $500 million for investment in renewables; and $300 million for investment in transmission systems. Additionally, the legislation provides for

[4]See Exhibit 3.

various tax credits, abatements, and exemptions to encourage new or expanded generation facilities and coal mines. It also contains provisions to facilitate transmission upgrades and the construction of new transmission lines.

According to Mr. Monk, the legislation contains several important environmental provisions. For example, it provides incentives for investment in clean coal technology. While federal standards track only three pollutants, the Illinois law regulates four pollutants, including carbon dioxide. The Illinois legislation also requires that state environmental regulations be based not only on health considerations, but also on an analysis of the cost effectiveness of various measures. In contrast, the U.S. Environmental Protection Agency may base its regulations strictly on health considerations.

Mr. Monk concluded his presentation by noting that Illinois is now focused on two important dates in the near future. In May 2002, retail choice will be available to residential customers per the 1997 deregulation law. In January 2005, the state will officially move to a market-based price system for electricity. At that time, both the mandatory transition period and current rate freeze provided for in the deregulation law will come to an end.

Testimony from Niles Parker[5]

Niles Parker, Director of the Energy Policy Division of the Indiana Department of Commerce, next spoke to the Committee about the use of coal and clean coal technology in Indiana. He explained that the Energy Policy Division consists of 11 staff members and administers various loan and grant programs, including programs promoting industrial energy efficiency, public facility energy efficiency, and recycling.

Mr. Parker observed that as a whole, the energy market is subject to swings in supply, demand, and pricing. He noted that prices for petroleum and natural gas are particularly volatile. In contrast, coal prices tend to remain flat over time. In Indiana, where coal fuels much of the state's electricity production, stable coal prices have been crucial. Indiana is the second leading consumer of coal in the nation, with 98% of the state's investor-owned utilities using coal to produce energy. Indiana is also a producer of coal. Mr. Parker reported that the state reached its peak coal production in 1998, when 36.8 million tons were produced.

According to Mr. Parker, the U.S. Department of Energy (DOE) began promoting clean coal technology partly in response to the Clean Air Act of 1990. The DOE has awarded $1.8 billion for clean coal technology programs, with $5.4 million of the total going to programs in Indiana. Mr. Parker noted that 4 of the DOE's 40 clean coal demonstration projects are located in Indiana. The communities of Chesterton, Burns Harbor, Richmond, and West Terre Haute are all home to DOE demonstration projects.

Coal research has also been funded at the state level. Mr. Parker reported that from 1993 to 1996, the Energy Policy Division administered the Indiana Coal Research Grant Program. Under the program, the Division awarded $1 million in grants, which funded eight projects. Grant recipients were required to use Indiana coal and were encouraged to locate low-sulfur coal resources in the state. The Division has also funded programs encouraging the efficient and economic use of coal by-products. As the second leading consumer of coal in the nation, Indiana produces a considerable amount of coal ash. Mr. Parker indicated that the Energy Policy Division has funded programs that make beneficial use of this abundant coal by-product.

---

[5]See Exhibit 4.

Mr. Parker concluded his testimony by arguing that Indiana must continue to improve its clean coal technology, so that utilities in the state may operate the cleanest, most efficient power plants available.

Testimony from Dr. Frederick T. Sparrow[6]

Next, Dr. Frederick T. Sparrow of the State Utility Forecasting Group at Purdue University presented projections of electricity supply and demand in Indiana. As background, Dr. Sparrow noted that in 1985 the legislature required the IURC to establish the forecasting group at a state-supported college or university. As specified in statute, the group's directive is to develop and keep current a methodology for forecasting the future growth of electricity within the state and region. In making its forecasts, the group consults with residential, commercial, and industrial consumers, as well as with the utility industry.

Dr. Sparrow indicated that he would discuss the group's most recent forecast for the state, which was made in 1999, and then update the Committee about the energy outlook in 2001. In 1999, the group forecasted that the rate of growth in electricity consumption would be 1.8% for the state. The group attributed any increase in residential consumption to a increase in per customer use. In the commercial and industrial sectors, the group predicted that growth in consumption would result from increased output by those sectors.
In 1999, the group also examined the relationship between energy demand and supply. The resulting forecast shows demand increasingly outpacing existing resources through at least 2016. The group's analysis allowed for a 15% reserve and considered "existing resources" to include installed rate-based capacity plus firm purchases, minus firm sales. Based on the growing discrepancy between demand and supply, the group predicted that Indiana would need 1,250 MW of new electric generating capacity by 2001, with energy demand growing steadily to result in a need for 7,675 MW of new capacity by 2016. Dr. Sparrow pointed out that in 1999, 2,330 MW of new capacity additions had been announced in Indiana. However, these additions were planned by independent power producers that had no obligation to use the power to satisfy Indiana demand.

Finally, the 1999 forecast made projections for yearly energy-weighted average prices for electricity under two market scenarios: a market subject to continued regulation, versus a competitive market. According to the forecast, electricity prices in a competitive market would initially be lower than the relatively stable prices of a regulated market. However, because Indiana is a low-cost energy state, the surrounding states would soon buy up Indiana's low-cost power in a competitive market. This would force Indiana's prices in a competitive market to eventually rise above those predicted for a regulated market. Dr. Sparrow cautioned, however, that the group's price projections were based on the assumption that competitive markets would work perfectly. He also noted that a move from a regulated market to a competitive market would involve a move from average-cost pricing to marginal-cost pricing.

Turning to the energy outlook in 2001, Dr. Sparrow explained that the group has prepared a 2001 forecast but will not publish it until it has been reviewed by the IURC. The updated forecast revises peak demand estimates downward because of the significant increase in interruptible load contracts between utilities and large industrial consumers. Dr. Sparrow noted that when wholesale prices surged during peak demand periods in 1999, one utility paid as much as $9,000/MWh. To avoid having to pay such high prices on the spot market, utilities began to offer deals under which large industrial customers could receive lower rates in exchange for agreeing to reduce or shut down operations during peak demand periods. As a result, interruptible load contracts grew from 500 MW in 1999 to over 1,000

[6]See Exhibit 5.

MW in 2001.

At the same time that peak demand estimates have been reduced, peak supply estimates have been increased because of a 500 MW increase in firm purchase contracts. Dr. Sparrow observed that many utilities have entered into such purchase contracts with the new merchant power plants that have emerged across the state and region.

Despite the decreased demand and increased supply estimates, the 2001 forecast still predicts a significant need for new electric generating capacity. By 2005, Indiana will need over 1,700 MW of new capacity, rising to a need for almost 7,000 MW of new capacity by 2016. Addressing this need, Dr. Sparrow suggested that additional capacity could come from three different sources: (1) new sources of traditional, rate-based capacity; (2) conservation efforts; and (3) short- and long-term purchases in the open market. First, the state could potentially draw on the 465 MW of new rate-based capacity that is currently under consideration by the IURC. Second, conservation efforts could free up additional megawatts. However, Dr. Sparrow cautioned that in order to be successful, such efforts would have to be encouraged by the state. Finally, Indiana utilities could continue to purchase power under both short- and long-term contracts with independent power producers that sell electricity on the wholesale market.

Dr. Sparrow then considered the likelihood that enough capacity will be available as the region's markets move toward competition. He reported the following statistics for Indiana as of August 2001: 1,885 MW of new capacity have been put into operation since the summer of 2000; 5,108 MW of new capacity have been approved; and 4,870 MW of new capacity have been proposed with petitions pending. In addition, 630 MW have been proposed by utilities that have not yet filed petitions with the IURC, for a total of 12,493 MW of actual or potential new capacity in Indiana. Whether this capacity will be inadequate or excessive will become an issue of both quantity and price as the region's markets deregulate. Dr. Sparrow explained that in a regulated market, an abundant supply leads to higher prices, as utilities' losses are factored into the rate structure. In a competitive market, on the other hand, prices decrease as supply increases. According to Dr. Sparrow, "the more supply, the merrier" it is for consumers in an open market. Dr. Sparrow therefore concluded that in an unregulated market, generation availability will largely become a function of price.

Finally, Dr. Sparrow expressed the group's concern that a few large generation companies could become dominant in Midwest wholesale markets. According to Dr. Sparrow, these large companies could then manipulate markets during peak periods. While he emphasized that the group did not believe market manipulation was currently happening in the region, Dr. Sparrow pointed to the California wholesale market as an illustration that manipulation can occur. He urged policymakers to be aware of this potential.

Testimony from the Citizens Action Coalition[7]

Grant Smith next described a Midwestern energy plan developed by the Citizens Action Coalition and other partners. Embodied in a report entitled *Repowering the Midwest: The Clean Energy Development Plan for the Heartland*, the plan calls for sustainable energy development in the region through the year 2020.

Before introducing the plan, Mr. Smith argued that Indiana's existing energy approach has become one-dimensional in its focus on increasing generating capacity. As evidence that this focus may be misguided, he cited a recent *New York Times* article that listed the

[7]See Exhibit 6.

Northeast, Texas, Illinois, Ohio, and Indiana as areas that may actually be facing an energy glut, due in part to the prevalence of merchant plants. Mr. Smith further suggested that expanding the region's transmission system could also become unnecessary, especially if the region adopts energy efficiency programs that reduce demand, as recommended in the report.

According to Mr. Smith, energy efficiency funding has decreased nationwide since deregulation efforts first began. Investments in Demand Supply Management (DSM) programs have continued to decline since deregulation was first discussed in the early 1990s. In Indiana, DSM funding has decreased 93% since 1993. Mr. Smith maintained that without efforts to control demand, customers will be exposed to extreme fluctuations in price. He also warned that a continued failure to invest in energy efficiency programs will result in a loss of potential long-term economic benefits. Another consequence of continued reliance on fossil fuels for energy production will be a negative impact on public health, as respiratory and other diseases result from increased pollutants.

After detailing the consequences of Indiana's current energy approach, Mr. Smith offered the report's alternative approach that focuses on diversifying Indiana's energy portfolio. Mr. Smith described the report as an economic analysis of potential energy efficiency and renewable resource initiatives in the Midwest. He noted that the report includes modeling for 10 different states and for different regions within those states. The report concludes that economic efficiency efforts could play a significant role in protecting consumers against price fluctuations, stimulating economic development, and improving environmental quality. The report calls for diversification of energy sources through the use of new technologies involving fuel cells, solar power, and wind power. It further recommends combined heat and power (CHP) systems that capture waste heat and use it to heat or cool buildings. According to Mr. Smith, another technology that has been successfully used in Indianapolis involves district heating and cooling systems. In general, the report advocates a shift from the current dependence on centralized, gas-fired power plants to the use of distributed resources from decentralized power sources, such as fuel cells. In describing the report's recommendations, Mr. Smith suggested that major manufacturers in the state could reap economic benefits from implementing energy efficiency measures at their facilities.

To implement the recommended measures, the report urges the creation of a program to promote energy efficiency and renewable resource initiatives. According to Mr. Smith, one model for such a program is the Vermont Energy Efficiency Utility. In 2000, Vermont's program spent $5 million on energy efficiency measures, resulting in an estimated savings in energy costs of $17 million. The Midwestern report proposes funding similar initiatives here by instituting non-bypassable charges to ratepayers of 0.3¢/kWh for energy efficiency initiatives and 0.1¢/kWh for renewable resource initiatives. Mr. Smith explained that the funds collected through these charges could be used to install energy efficiency measures at a cost of 2.4¢/kWh, which is less than half the average cost of power in Indiana. For every $1 spent on such measures, there would be an estimated total savings of $1.80 in energy costs.

Finally, Mr. Smith concluded that if the Midwest increases its use of distributed resources and decentralized power sources, the need to expand the region's transmission system will decrease. He argued that moving from a centralized transmission grid to a decentralized grid will also enhance the system's reliability.

Indiana Public Power and Finance Authority[8]

[8]See Exhibit 9.

At the conclusion of Mr. Smith's testimony, Representative Fry introduced a proposal to create a public power authority that would compete with investor-owned utilities across the state. Representative Fry explained that he had been working on the proposal for several months and that the underlying concepts were still being developed. He expressed his concern that the continued consolidation of power producers across the nation and region would result in a small number of producers that will have the ability to manipulate the energy market. Noting that his proposal was meant to prevent such market manipulation in Indiana, he then invited attorneys from the Legislative Services Agency to highlight the crucial concepts behind the proposed Indiana Public Power and Finance Authority (IPPFA).

Counsel explained that IPPFA's mission would be to provide affordable and stable electric service to citizens and businesses statewide. Governed by an eleven-member board appointed by the governor, IPPFA would be subject to the jurisdiction of the IURC in setting its rates and siting its facilities.

On the retail level, IPPFA could compete with investor owned utillities (IOUs) in previously assigned electric service areas. Customers in such service areas would have the choice of staying with their current provider or receiving services from IPPFA. Additionally, IPPFA would be allowed to sell electricity at wholesale to Indiana rural electric cooperatives, municipalities, and IOUs. IPPFA would also be allowed to sell its excess power on the wholesale market outside Indiana. Within the state, IPPFA would be required to sell both its retail and wholesale power at rates no greater than the cost of service. However, IPPFA's out-of-state wholesale rate could exceed the cost of service.

IPPFA would be organized as a separate body corporate and politic, not a state agency, to enable it to issue bonds to build generators, buy existing facilities, and finance its operations. As a quasi-public entity, IPPFA would be required to pay property taxes, make payments in lieu of taxes, or offer power at reduced rates to the political subdivisions in which it establishes its facilities.

The proposal would require the construction, maintenance, and operation of all IPPFA-owned facilities and transmission lines to be governed by project labor agreements. IPPFA employees would have to be hired through union halls and paid union wages and benefits. Additionally, employees would be required to form and join a union.

Also included in the proposal are certain economic development provisions. For example, IPPFA would be given the authority to sponsor a program based on the New York Power for Jobs Program. Under such a program, IPPFA would provide low cost power to businesses, small businesses, and not-for-profit corporations that commit to create or retain jobs in Indiana. IPPFA could adopt rules establishing energy consumption levels for qualifying businesses and the amount of power to be allocated under the program. Additionally, to support the Indiana coal industry, IPPFA's coal-fired facilities would be required to use only Indiana coal.

On the environmental front, IPPFA could issue bonds to support clean coal technology that would allow coal-fired plants across the state to produce more power with less pollution. IPPFA would also be involved in exploring alternative energy sources and renewable fuels, such as wind, solar, and biomass technologies. Finally, IPPFA would be required to promote statewide energy efficiency and conservation measures.

After counsel had outlined the proposal's main features, Representatives Bodiker and Pelath commended Representative Fry for taking the initiative to help Indiana consumers. While recognizing the efforts that went into the proposal, Senator Weatherwax questioned whether the state should be involved in utility business.

Representative Fry thanked the Committee for its feedback. He and Senator Server then adjourned the meeting at approximately 12:15 p.m.